

April 9, 1973

unanimous consent to withdraw my amendment to Senator Whitney's amendment.

PRESIDENT: Well, it's Senator Whitney's amendment... Senator Whitney, maybe you'll have to give us an expression here. It's your amendment.

SENATOR WHITNEY: Mr. Chairman, I haven't been sold.

PRESIDENT: All right, we still have the amendment then before us. Now Senator Stahmer, then Cavanaugh, Murphy, Luedtke, Proud, DeCamp. Senator Stahmer.

SENATOR STAHMER: Did I understand Senator Whitney to say he still hasn't been sold?

PRESIDENT: He's still staying with the amendment, that's correct.

SENATOR STAHMER: Well, I was just going to offer a suggestion to Senator Carpenter if he was serious about a constitutional amendment on age, I had one introduced two years ago but it was very lenient. It would have allowed anyone to serve for at least two terms irrespective of their age and after that if they were over 70, they would no longer be able to serve. If he's serious about introducing a bill, it's already been drafted and I could accommodate him.

PRESIDENT: Let's try to talk about this bill and the retirement age on this bill, which right before us now is Senator Whitney's age requirement at 74. Senator Whitney, do you want to yield...

SENATOR WHITNEY: Mr. President, I'll withdraw the amendment since the chief instigator is willing to withdraw and I will yield to Senator Luedtke who now has the second amendment.

PRESIDENT: All right, stand by. Senator Whitney asking unanimous consent to withdraw his amendment. Are there objections to the withdrawal of his amendment? Any objections? Hearing none, so ordered. His amendments are withdrawn. Now to you, Senator Luedtke.

SENATOR LUEDTKE: Mr. President, members of the Legislature, I will read this and then I'll put it up on the desk. The amendment that I have and I had it here and just couldn't find it, will answer part of our question and that is when this type of forced retirement would take effect. One of the problems we have is a question as to whether or not a term for a judge would necessitate his retiring before his term has been satisfied. In other words, take a district county judge who's just been elected to a four-year term, there is a serious question as to whether or not you can make him retire in the middle of a term and I might, for, give you this information which I have from the, from the office of the Court Administrator--there are presently, if this bill were to pass, at age 70, this is the information I have, it would require three county judges, four district judges and two Supreme Court judges to retire before the end of their present terms. Now the legal problem is involved in whether or not you can force such retirement before terms, particularly where there is a set term, such as county district--district county judge. Now whether or not a retention vote of six years constitutes a term is also a questionable one. Garado vs. McMannus was a case which touched upon the question with regard to payment of judges but did not go into this particular question so it would open up a Pandora's box for other activity if this question were ever raised by any of the judges. Now it would not be well, when we're